

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BILLY DEAN PIKE,

Defendant.

8:17CR216

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's "Motion for Sentencing Modification," ECF No. 39. The Defendant seeks a modification of his sentence pursuant to 18 U.S.C. § 3582(c)(1)(A) as amended by Section 603 of the First Step Act, Pub. L. No. 115-391, 132 Stat. 5194 (2018), specifically to a term of home confinement.

In Section 603 of the First Step Act, congress amended 18 U.S.C. § 3582(c)(1)(A) to permit defendants to move a sentencing court for compassionate release "after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier."

The Defendant refers the Court to a one-page document, ECF No. 39 at Page ID 103, and describes the document as "BOP exhausted remedy." See *Id.* at Page ID 101. The document, dated 1/15/20, does not identify the sender, the recipient, or any action taken by the Bureau of Prisons. It simply indicates that the Defendant is "ELIGIBLE" for some unspecified relief under the First Step Act and is that he is considered to present a minimum risk of recidivism. The document does not demonstrate the Defendant's exhaustion of his administrative remedies pursuant to 18 U.S.C. § 3582(c)(1)(A), nor does

the Defendant allege any facts from which the Court can infer that he has exhausted such remedies.

This Court cannot entertain the Defendant's request for compassionate release until his administrative remedies have been exhausted. Accordingly,

IT IS ORDERED:

1. The Defendant's "Motion for Sentencing Modification," ECF No. 39, is denied without prejudice to resubmission following exhaustion of administrative remedies; and
2. The Clerk will mail a copy of this Memorandum and Order to the Defendant at his last known address.

Dated this 29th day of April 2020.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge